

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LOUDEN, LLC,

No. C-12-2638 EMC (LB)

Plaintiff,

v.

**ORDER ADOPTING IN PART AND
REJECTING IN PART REPORT AND
RECOMMENDATION; AND
REMANDING TO STATE COURT**IGNACIO J. PAJARILLO, *et al.*,

Defendants.

(Docket Nos. 3, 6, 11, 14)

Plaintiff Louden, LLC initiated this unlawful detainer action in state court. Defendants Ignacio J. Pajarillo and Norma Lopez subsequently removed the case to federal court. At the time that they removed the case, Ms. Lopez also filed a motion to proceed in forma pauperis. *See* Docket No. 3 (motion). Shortly thereafter, Louden made an appearance in the case and filed a motion to remand based on a lack of subject matter jurisdiction. *See* Docket No. 6 (motion). Judge Beeler prepared a report and recommendation on the motion to remand in which she recommended that the motion be granted because there was neither federal question nor diversity jurisdiction. *See* Docket No. 14 (report and recommendation). Judge Beeler also recommended that Ms. Lopez's motion to proceed in forma pauperis be denied as moot. Finally, in her report, Judge Beeler noted that objections to the report had to be filed within fourteen days after the party was served with a copy. No party filed an objection to Judge Beeler's report and recommendation.

Having reviewed Judge Beeler's report and recommendation, the Court hereby **ADOPTS** it in part and **REJECTS** it in part. More specifically, the Court adopts Judge Beeler's

1 recommendation that the case be remanded for lack of subject matter jurisdiction. Her analysis is
2 thorough and well reasoned on this issue.

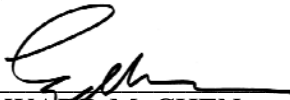
3 The Court does not adopt Judge Beeler's recommendation to the extent she recommended
4 that Ms. Lopez's motion to proceed in forma pauperis be denied as moot. Because Ms. Lopez might
5 be held accountable for at least the filing fee, the Court concludes that her motion for relief is not
6 moot. Having reviewed Ms. Lopez's financial affidavit, the Court concludes that she has adequately
7 established that she meets the economic eligibility requirement of 28 U.S.C. § 1915(a) and,
8 accordingly, grants her application to proceed in forma pauperis. The Court, however, still remands
9 the case because of the lack of subject matter jurisdiction.

10 The Clerk of the Court is directed to remand in accordance with this opinion and close the
11 file in this case.

12 This order disposes of Docket Nos. 3, 6, 11, and 14.¹

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14 IT IS SO ORDERED.

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16 Dated: August 2, 2012

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EDWARD M. CHEN
United States District Judge

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27 ¹ In Docket No. 11, Loudon asked that its motion to remand be heard on shortened time.
28 Loudon argued that "an order shortening time is necessary to effectuate the summary intent of
California's unlawful detainer statutes." Docket No. 11 (Ex Parte App. at 2). Loudon's motion is
now moot in light of the Court's ruling herein.

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

LOUDEN LLC,

Plaintiff,

v.

IGNACIO PAJARILLO et al,

Defendant.

Case Number: CV12-02638 EMC

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on August 2, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Ignacio J. Pajarillo
124 Valley Oak Lane
Vallejo, CA 94591

Norma Lopez
124 Valley Oak Lane
Vallejo, CA 94591

Dated: August 2, 2012



Richard W. Wieking, Clerk
By: Betty Lee, Deputy Clerk